1290 (11th Cir. 2005) (internal quotation marks omitted). In Schiavo, the Eleventh Circuit went on to state that "[t]he doctrine operates to preclude courts from revisiting issues that were decided explicitly or by necessary implication in a prior appeal." Id. "The doctrine is based on the premise that an appellate decision is binding in all subsequent proceedings in the same case." Litman v. Mass. Mut. Life Ins. Co., 825 F2d 1506, 1510 (11th Cir. 1987), cert. denied, 484 U.S. 1006 (1988). The law of the case doctrine therefore serves the "interest[] of judicial efficiency." Conway v. Chemical Leaman Tank Lines, Inc., 644 F.2d 1059, 1061 (5th Cir. 1981).

The limited exceptions to this doctrine which, when present, do not limit a tribunal's power to revisit a previously decided issue, are applicable when: "(1) new and substantially different evidence emerges at a subsequent trial; (2) controlling authority has been rendered that is contrary to the previous decision; or (3) the earlier ruling was clearly erroneous and would work a manifest injustice if implemented." Schiavo, 403 F.3d at 1292 (internal quotation marks omitted).

In this case, Saporito failed to establish any of the foregoing exceptions. He has presented no new evidence, no contrary controlling authority, and no manifest injustice. Further, the fact that Saporito did not timely seek certiorari review of the prior order should, in and of itself, render that order a final judgment for *res judicata* purposes, thereby barring further review by the Eleventh Circuit. See, e.g., New Haven Inclusion Cases, 399 U.S. at 481.

Clearly, Saporito's latest round of proceedings before the Board and Eleventh Circuit (and now, this Court) are nothing more than a ruse to resurrect foreclosed claims. Indeed, the arguments raised by Saporito before these forums are disingenuous (and border on the vexatious) in that he has raised nothing new – all of the claims contained in his most-recent motions before the Board, in his Eleventh Circuit appeal, and in the instant Petition are the same ones he has already made and litigated, and which have been fully and fairly adjudicated, over six years ago.

"Where, as here, the litigation has already been in the federal courts an inordinately long time, considerations of equity require that the litigation be brought to an end as quickly as possible." Pub. Utils. Comm'n v. United Fuel Gas Co., 317 U.S. 456, 463 (1943). For Saporito, that end is here and now. Cf. Jefferson v. City of Tarrant, 522 U.S. 75, 85 n.1 (1997) (noting that "[t]he goals of finality would be frustrated, rather than furthered, by these wasteful and time-consuming procedures. Based on the unusual facts of this case, the justifications for the finality doctrine - efficiency, judicial restraint, and federalism - would be ill served by another round of litigation on an issue that has been authoritatively decided by the [court below].") (internal citations omitted). This Court should thus "exercis[e] its inherent power with a sharp eye to the 'principle that litigation must at some definite point be brought to an end,'" and deny the instant petition for certiorari review of this matter. U.S. v. The Ohio Power Co., 353 U.S. 98, 109 (1957) (internal citation omitted).

CONCLUSION

Based upon the foregoing arguments and authorities, FPL respectfully requests that the Petition for Writ of Certiorari be denied.

Respectfully submitted,

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